

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:

SILBURN RALPH PALMER

Debtor

§
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§
§
§

Case No. 23-41916

**BOCA RATON 316, LLC D/B/A TRINITY HEIGHTS' MOTION FOR RELIEF FROM
THE AUTOMATIC STAY TO OBTAIN POSSESSION OF RESIDENTIAL REAL
PROPERTY AND WAIVER OF THIRTY-DAY HEARING REQUIREMENT
(Unlawful Detainer)**

NOTICE

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

Boca Raton 316, LLC d/b/a Trinity Heights ("Trinity" or the "Movant"), a creditor and party in interest in this Chapter 7 case, hereby moves for entry of the Order Terminating the Automatic Stay, and would respectfully show as follows:

JURISDICTION

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The relief requested may be granted pursuant to 11 U.S.C. §§ 362(d).

BACKGROUND

2. On October 10, 2023, Silburn Ralph Palmer (the “Debtor”) filed a voluntary petition under Chapter 13 of the Bankruptcy Code.

3. On October 7, 2024, the case was converted to a case under Chapter 7 of the Bankruptcy Code. Michelle Chow was appointed as the Chapter 7 Trustee on October 8, 2024.

4. On April 27, 2024, the Debtor entered into a residential lease agreement (the “Lease”) for property located at 6521 Melwood Street, Apartment 2011, Fort Worth, Texas 76112 (the “Premises”). The Lease commencement date was May 10, 2024, and is set to expire on July 31, 2025. A copy of the Lease and payment ledger is attached hereto as **Exhibit A**. The monthly lease payment for the Premises is \$1,000.00, plus applicable charges.

5. Post-petition the Debtor has failed and continues to refuse to pay rent for October, November, and December 2024.

6. The Debtor continues to occupy the Premises.

REQUESTED RELIEF

7. This motion requests an order from the Bankruptcy Court authorizing the Movant to obtain possession of the Premises identified in paragraph 4.

8. The Premises is not exempt property.

9. Pursuant to 11 U.S.C. 362(d)(1), cause exists because post-petition lease payments have not been made and Movant is entitled to possession of the Premises. Further, the Debtor has indicated in the Amended Statement of Intention for Individuals Filing Under Chapter 7 (Docket No. 41) that the Lease is not being assumed, therefore, Debtor has no further possessory rights to the Premises.

10. The Premises is not necessary to an effective reorganization.

11. Based upon the ongoing post-petition default of the Debtor, and the rejection of the Lease, Movant requests waiver of the 14 days required by Fed.R. Bankr. P. 4001(a)(3).

CONCLUSION

Wherefore, Boca Raton 316, LLC d/b/a Trinity Heights respectfully request that the Court enter the Order Terminating the Automatic Stay, and for all other relief Movant may be entitled.

Dated: December 4, 2024

ANDREWS MYERS, P.C.

/s/ T. Josh Judd

By: _____

T. JOSH JUDD

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Counsel for the Movant

CERTIFICATE OF CONFERENCE

The undersigned certifies, pursuant to Local Bankruptcy Rule 9014-1(d)(1), that prior to filing this motion, on November 11, 2024, he contacted the Debtor's attorney regarding the requested relief. No response was received.

/s/ T. Josh Judd

T. Josh Judd

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2024, I caused a true and correct copy of the foregoing Motion for Relief to be served upon the parties listed below by depositing same with the U.S. Postal Service via first class mail, or via electronic notification.

Debtor *Via U.S. Mail*
Silburn Ralph Palmer
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Fort Worth, Texas 76155

Debtor *Via U.S. Mail*
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Chapter 7 Trustee
Michelle H. Chow
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Addiston, Texas 75001

US Trustee
Office of the U.S. Trustee
110 North College Avenue, Suite 300
Tyler, Texas 75702

/s/ T. Josh Judd
T. Josh Judd